

CITY OF SAN JOSÉ, CALIFORNIA
Department of Planning, Building and Code Enforcement
801 North First Street, Room 400
San José, California 95110-1795

Hearing Date/Agenda Number
P.C. 06/12/02 Item. 3.o.

File Number
CP 02-018

Application Type
Conditional Use Permit

Council District
4

Planning Area
Berryessa

Assessor's Parcel Number(s)
245-11-001

STAFF REPORT

PROJECT DESCRIPTION

Completed by: Caleb Gretton

Location: Southeast corner of Sierra Road and Woodranch Road

Gross Acreage: 0.82

Net Acreage: 0.82

Net Density: N/A

Existing Zoning: R-1-8 Residence

Existing Use: PG& E Tower with 12 wireless communication antennas

Proposed Zoning: No change

Proposed Use: PG&E Tower with up to 9 wireless communication antennas

GENERAL PLAN

Completed by: Caleb Gretton

Land Use/Transportation Diagram Designation
Medium Low Density Residential (8 DU/AC)

Project Conformance:
☒ Yes ☐ No
☐ See Analysis and Recommendations

SURROUNDING LAND USES AND ZONING

Completed by: Caleb Gretton

North: Single-family detached residential

R-1-8 Residence

East: Single-family detached residential

R-1-8 Residence

South: Single-family detached residential

R-1-8 Residence

West: Interstate 680

ENVIRONMENTAL STATUS

Completed by: Caleb Gretton

☐ Environmental Impact Report found complete
☐ Negative Declaration circulated on
☐ Negative Declaration adopted on

☒ Exempt
☐ Environmental Review Incomplete

FILE HISTORY

Completed by: Caleb Gretton

Annexation Title: Berryessa No.13

Date: July 22, 1971

PLANNING DEPARTMENT RECOMMENDATIONS AND ACTION

☐ Approval
☒ Approval with Conditions
☐ Denial
☐ Uphold Director's Decision

Date: _____
☐ _____

Approved by: _____
☒ Action
☐ Recommendation

APPLICANT/ DEVELOPER

Bob Gundermann
AT&T Wireless
651 Gateway
So. San Francisco, CA 94080

OWNER

Pacific Gas and Electric Co.
Robert E. Schlegal,
77 Beale Street, Thirteenth Floor
San Francisco, CA 94105

PUBLIC AGENCY COMMENTS RECEIVED

Completed by: Caleb Gretton

Department of Public Works

No comments.

Other Departments and Agencies

See attached memorandum from Fire Department

GENERAL CORRESPONDENCE

None received.

ANALYSIS AND RECOMMENDATIONS

BACKGROUND

The developer, AT&T Wireless, is requesting a Conditional Use Permit to allow the installation of three wireless communication antennas on an existing PG&E transmission tower of approximately 125 feet in height, and the placement of an equipment shelter within an existing enclosure under the PG&E tower on a 0.82 gross acre site owned by Pacific Gas & Electric. The Zoning Ordinance requires a Conditional Use Permit for wireless communication antennas in the R-1-8 Residence Zoning District.

The project site is a flat rectangular parcel. The site is vacant except for the existing utility tower and a perimeter fence. It is bounded by single-family detached residential uses on the north, east and south. Adjacent to the subject property on the west is Interstate 680.

In 1996, staff explored the issues of electromagnetic radiation to determine if emissions from the proposed antennas posed a public health concern. Staff found that the low-frequency, low-energy, non-ionizing emission associated with wireless communications antennas were well below the recognized safety standards set by the American National Standards Institute (ANSI). Staff concluded there was no evidence that such transmission would result in adverse health effects to people living or working in the vicinity of the antennas. Further, Staff investigated reports that wireless communication transmission interfered with hearing aids, pace makers, and other electronic devices. Staff determined the reported interference resulted from cordless telephones and not from the antennas.

Project Description

The current land use on the subject site is a PG&E tower with six wireless communication antennas located at the top of the 125-foot tower and six wireless communication antennas located at a height of 69 feet on the tower. There is an existing equipment enclosure located directly under the tower servicing the antennas at the top of the tower and an equipment enclosure located approximately 15 feet to the south of the tower servicing the antennas located at a height of 69 feet on the tower.

The proposed project consists of the removal of the six wireless communication antennas located at the top of the tower and the installation of three eight-foot wireless communication antennas on an existing

PG&E tower located at height of 50 feet on the tower. Each antenna panel measures approximately eight feet tall by one foot wide and will not exceed a height of 54 feet. The existing 20' x 12" equipment shelter 10' tall located under the existing tower will contain associated equipment for the new antennas.

ENVIRONMENTAL REVIEW

The Director of Planning has determined that this project is exempt from further environmental review under the provisions of the California Environmental Quality Act. The Environmental Quality Act Section 15301 class 1 exemption consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination.

GENERAL PLAN CONFORMANCE

The proposed use is consistent with the San Jose 2020 General Plan Land Use/Transportation Diagram designation of Medium Low Density Residential (8 DU/AC) in that wireless communication antenna may be allowed with a Conditional Use Permit in R-1 Residence zoning districts which conform to the designation.

ANALYSIS

The primary issue analyzed is conformance to Council Policy 6-20, Land Use Policy for Wireless Communications Antennas, which provides criteria for siting such facilities including location, setbacks from residential uses, aesthetics, and parking.

Council Policy for Wireless Communications Antennas

The City of San Jose may allow installation of wireless communication antenna with a Conditional Use Permit to ensure such projects conform to the City requirements and are compatible with the surrounding neighborhood.

The proposed project will collocate three wireless communication antennae and associated equipment on an existing PG&E tower in a corridor for high-tension power lines exceeding 200 kilovolts, consistent with Council policy. The structure-mounted antennae are located at a minimum of 50 feet horizontally from single family residences consistent with Council policy. The top of the antenna will be located on an existing PG&E tower at a height not to exceed 54 feet maximum from finished grade.

The Council Policy requires structure mounted antennas to be located to minimize visual impacts and to be architecturally integrated into the structure. The proposed antennas are collocated on the existing PG&E tower that has existing overhead service lines. Although visible, the antennas will be painted to match the existing color of the utility tower and will not significantly add to the visual impacts created by the existing tower and overhead service lines on the site.

The Policy also requires ancillary equipment to be screened. Although PG&E's own requirements prevent the applicant from providing landscaping around the tower as required by Council policy, the

applicant is housing the equipment shelter within a masonry wall enclosure. Consistent with Council policy, the proposed project will not eliminate required parking.

RECOMMENDATION

The Planning staff recommends that the Planning Commission approve the requested Conditional Use Permit and include the following findings and conditions in its Resolution.

The Planning Commission finds that the following are the relevant facts regarding this proposed project:

1. This site has a designation of Medium Low Density Residential (8 DU/AC) on the adopted San José 2020 General Plan Land Use/Transportation Diagram.
2. The project site is located in the R-1-8 Residence Zoning District.
3. Under the provisions of Section 15301 of the State Guidelines for Implementation of the California Environmental Quality Act (CEQA), this project is exempt from environmental review.
4. The project proposes the installation of three wireless communication antennas on a PG&E tower and placement of associated equipment cabinet in an existing masonry enclosure. The tower is located in a PG&E right-of-way at the intersection of Sierra and Woodranch Road, adjacent to Interstate 680. The PG&E tower is located a minimum of 50 feet horizontally from adjacent single-family residences.
5. The top of the wireless communication antennae will be located at a height not to exceed 54 feet on a PG&E tower.
6. The antennae will be painted to match the existing structure to minimize the visual impacts created by existing utility poles and overhead service lines on the site.
7. The project does not reduce the existing on-site parking.
8. A donation of two (2) 24-inch box trees will be made to the Our City Forest program.

This Planning Commission concludes and finds, based upon an analysis of the above facts that:

1. The proposed project is consistent with the adopted San Jose 2020 General Plan Land Use/Transportation Diagram of the City of San Jose.
2. The proposed project complies with all applicable provisions of the Zoning Ordinance.
3. The proposed project is in compliance with the California Environmental Quality Act.
4. The proposed project is consistent with City Council Policy 6-20: Land Use Policy for Wireless Communication Facilities.

5. The proposed project appropriately locates wireless communication antennae in an existing PG&E corridor for high-tension lines exceeding 200 kilovolts.
6. The proposed project contains adequate setbacks of 50 feet horizontally from residential uses.
7. The proposed project will not eliminate parking.

Finally, based upon the above-stated findings and subject to the conditions set forth below, the Planning Commission finds that:

1. The proposed use at the location requested will not
 - a. Adversely affect the peace, health, safety, morals or welfare of persons residing or working in the surrounding area; or
 - b. Impair the utility or value of property of other persons located in the vicinity of the site; or
 - c. Be detrimental to public health, safety or general welfare; and
2. The proposed site is adequate in size and shape to accommodate the yards, walls, fences, parking and loading facilities, landscaping and other development features prescribed in this title, or as is otherwise required in order to integrate said use with the uses in the surrounding areas; and
3. The proposed site is adequately served:
 - a. By highways or streets of sufficient width and improved as necessary to carry the kind and quality of traffic such use would generate; and
 - b. By other public or private service facilities as are required.

In accordance with the findings set forth above, a Conditional Use Permit to use the subject property for said purpose specified above and subject to each and all of the conditions hereinafter set forth is hereby granted. This Planning Commission expressly declares that it would not have granted this permit except upon and subject to each and all of said conditions, each and all of which conditions shall run with the land and be binding upon the owner and all subsequent owners of the subject property, and all persons who use the subject property for the use conditionally permitted hereby.

CONDITIONS PRECEDENT

This Conditional Use Permit shall have no force or effect and the subject property shall not be used for the hereby permitted uses unless and until all things required by the below-enumerated precedent conditions shall have been performed or caused to be performed and this Resolution has been recorded with the County Recorder.

1. **Acceptance and Payment of Recording Fees.** The "Acceptance of Permit and Conditions" form shall be **signed, notarized, and returned** to the Department of City Planning within **60 days** from

the date of issuance of the resolution granting the permit. *Failure to do so will result in this permit automatically expiring regardless of any other expiration date contained in this permit.* Fees for recording a Certificate of Permit with the Recorder for the County of Santa Clara must be submitted along with the Acceptance Form.

CONCURRENT CONDITIONS

The subject property shall be maintained and utilized in compliance with the below-enumerated conditions throughout the life of the permit:

1. **Conformance with Plans.** Construction and development shall conform to approved development plans entitled, "AT&T Wireless Services, L.L.C. Site Number: # 8SF-1057 A, PG&E Tower 2/19," dated May 17, 2002 on file with the Department of City Planning and Building and to the San Jose Building Code (San Jose Municipal Code, Title 24)
2. **Nuisance.** This use shall be operated in a manner which does not create a public or private nuisance. Any such nuisance must be abated immediately upon notice by the City.
3. **Construction Hours.** Construction shall be limited to the hours of 7:00 a.m. to 7:00 p.m. Monday through Friday for any on-site or off-site work within 500 feet of any residential unit.
4. **Lighting.** This permit allows no on-site lighting.
5. **Tree Removals.** No tree larger than 56 inches in circumference, at a height 24 inches above the natural grade slope, may be removed without a Tree Removal Permit issued by the Director of Planning.
6. **Landscaping Mitigation.** Applicant shall donate two (2) 24-inch box trees to the Our City Forest program. For information contact Our City Forest at 408-998-7337.
7. **Outside Storage.** No outside storage is permitted for the project except in areas designated on the approved plan set.
8. **Sign Approval.** No signs are approved at this time. All proposed signs shall be subject to approval by the Director of Planning.
9. **Colors and Materials.** All building colors and materials are to be those specified on the approved plan set.
10. **Building Clearance for Issuing Permits.** Prior to the issuance of a Building Permit, the following requirements must be met to the satisfaction of the Chief Building Official:
 - a. *Construction Plans.* This permit file number, CP 02-018 shall be printed on all construction plans submitted to the Building Division.

- b. *Emergency Address Card.* The project developer shall file an Emergency Address Card, Form 200-14, with the City of San José Police Department.
11. **Fire Hydrants.** Public (off-site) and private (on-site) fire hydrants shall be provided as approved and at the exact location specified by Protection Engineering Section of the Fire Department to the satisfaction of the Fire Chief.
 12. **Fire Hydrants and Driveways.** All fire hydrants shall be at least 10 feet from all driveways to the satisfaction of the Fire Chief.
 13. **Fire Flow.** Required fire flow for the site is 2,000 gpm, or as otherwise approved in writing by the Fire Chief.
 14. **Fire Lanes.** Fire lanes, suitably designated "FIRE LANE - NO PARKING," shall be provided to the satisfaction of the Fire Chief.
 15. **Hazardous Materials.** Any hazardous materials regulated by Chapter 17.68 of the San José Municipal Code on the site must be used and stored within approved buildings and/or within areas specified on the approved plan set, if any, in full compliance with the City's Hazardous Material Ordinance and the Hazardous Materials Management Plan for the site approved by the San José Fire Prevention Bureau.
 16. **Anti-Graffiti.** The applicant shall remove all graffiti from buildings and wall surfaces within 48 hours of defacement.
 17. **Discontinuation of Use.** Upon discontinuation of the use of the subject antennas, the applicant shall remove all antenna improvements associated with this permit within 30 days.
 18. **Co-location.** The owner(s) and operators of the proposed antenna support structure shall allow the co-location of wireless antennas for other providers. Future collocation that does not increase the height of the utility structure by more than seven feet may be permitted through a permit adjustment at the discretion of the Planning Director.
 19. **Generators.** This permit does not include approval of emergency back-up generator on the subject site.
 20. **Time Limit.** This permit shall expire five years after the date of approval. Renewal of the use through a subsequent Conditional Use Permit shall include a compliance review and an evaluation of the operation approved under the present permit.

PLEASE NOTE THAT THIS CONDITIONAL USE PERMIT HAS BEEN GRANTED FOR A PERIOD OF FIVE (5) YEARS ONLY. YOU ARE BEING SPECIFICALLY AND SEPARATELY ADVISED OF THIS TIME LIMITATION SO THAT YOU WILL CONSIDER THIS TIME LIMITATION IN YOUR DECISION TO ACCEPT THIS PERMIT OR AS YOU MAKE ANY INVESTMENT DECISION RELATED TO THIS PROPERTY.

21. **Construction Conformance.** A project construction conformance review by the Planning Division is required. Planning Division review for project conformance will begin with the initial plan check submittal to the Building Division. Prior to final inspection approval by the Building Department, Developer shall obtain a written confirmation from the Planning Division that the project, as constructed, conforms with all applicable requirements of the subject Permit, including the plan sets. To prevent delays in the issuance of Building Permits, please notify Planning Division staff at least one week prior to the final Building Division inspection date.

CONDITIONS SUBSEQUENT

1. **Permit Expiration.** This Conditional Use Permit shall automatically expire two years from and after the date of adoption of the Resolution by the Planning Commission, or by the City Council on appeal, granting this Permit, if within such two-year period, the proposed use of this site or the construction of buildings has not commenced, pursuant to and in accordance with the provisions of this Conditional Use Permit. The date of adoption is the date the Resolution granting this Conditional Use Permit is approved by the Planning Commission. However, the Director of Planning may approve a Permit Adjustment to extend the validity of this Permit for a period of up to two years. The Permit Adjustment must be approved prior to the expiration of this Permit.
 2. **Revocation, Suspension, Modification.** This Conditional Use Permit may be revoked, suspended or modified by the Planning Commission, or by the City Council on appeal, at any time regardless of who is the owner of the subject property or who has the right to possession thereof or who is using the same at such time, whenever, after a noticed hearing in accordance with Part 3, Chapter 20.44, Title 20 of the San José Municipal Code it finds:
 - a. A violation of any conditions of the Conditional Use Permit was not abated, corrected or rectified within the time specified on the notice of violation; or
 - b. A violation of any City ordinance or State law was not abated, corrected or rectified within the time specified on the notice of violation; or
 - c. The use as presently conducted creates a nuisance.
- c: Pacific Gas & Electric, Robert Schlegel, 77 Beale Street, San Francisco, CA 94105

Attachments

Location Map
 Council Policy
 Plan Set
 Fire Department Memo